

MICHAEL SCOTT (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against WELTMAN, WEINBERG & REIS CO., L.P.A. (“Defendant”):

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA").

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the State of Delaware and as such, personal jurisdiction is established.

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PARTIES

5. Plaintiff is a natural person residing in Dover, Delaware 19901.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. In the alternative, Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. §1692k(a), and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Defendant is a debt collection company with its principal place of business located at 175 South 3rd Street, Suite 900, Columbus, Ohio 43215.

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all pertinent times hereto, Defendant was hired to collect a consumer debt and attempted to collect that debt from Plaintiff.

12. The debt, a U.S. Bank credit card, arose out of transactions that were primarily for personal, family, or household purposes.

13. As Plaintiff has no business debt, the debt sought by Defendant could have only been personal in nature.

14. Beginning in August 2012, and continuing through March 2013, Defendant continuously and repeatedly contacted Plaintiff seeking and demanding payment of an alleged debt.

15. Defendant contacted Plaintiff on his cellular telephone, on average, one (1) to

1 three (3) times a day, causing him to receive more than ten (10) collection calls a week.

2 16. On numerous occasions, Plaintiff informed Defendant to stop calling him, as the
3 collection calls were unwelcome and not convenient to receive.

4 17. Further, Plaintiff informed Defendant that he had recently undergone surgery for
5 a condition in his brain, and lacked financial means to pay the alleged debt.

6 18. Despite the above facts, Defendant continued to call and did not remove
7 Plaintiff's cellular telephone number from its call queue.

8 19. Defendant had no reason to disbelieve the information Plaintiff shared, yet
9 threatened to continue calling until the alleged debt was paid.

10 20. The only purpose to be served by continuing to call under the circumstances was
11 to abuse and harass Plaintiff, knowing the calls were unwanted and that financial constraints
12 prevented Plaintiff from making payments demanded.

13 21. After being notified that further calls were unwanted, Defendant resorted to
14 trickery, giving exigent reasons in messages to secure Plaintiff's participation in calling back.
15 For example, Defendant stated that it had "important information" for Plaintiff when there was
16 no such information or professing an urgent "need" to speak, when there was nothing urgent
17 Defendant discussed.
18

19 22. Defendant's actions in attempting to collect the debt were harassing, deceptive
20 and unfair.

21
22 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**
23 **COUNT I**

24 23. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.
25 §§1692d and 1692d(5).

a. Section 1692d of the FDCPA prohibits debt collectors from engaging in any

unconscionable means to collect or attempt to collect any debt.

- b. Defendant violated §1692f of the FDCPA when it continuously contacted Plaintiff for a debt despite having been instructed to stop calling him and knowing that he did not have the financial means to pay the alleged debt.

WHEREFORE, Plaintiff, MICHAEL SCOTT, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, MICHAEL SCOTT, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

Date:04/12/2013

By: /s/ W. Christopher Componovo
W. Christopher Componovo
Attorney ID #3234
Kimmel & Silverman, P.C.
Silverside Carr Executive Center
Suite 118, 501 Silverside Road
Wilmington, DE 19809
Phone: (302) 791-9373
Facsimile: (302) 791-9476